WPMS 577 of 2001

Hon. P.C.Verma,J.

Heard learned counsel for the petitioner and the learned Govt. Advocate.

This writ petition has been filed by the petitioner challenging the order dated 26th April, 2000 passed by District & Sessions Judge, Haridwar in Criminal Revision No. 127 of 2000. Confirming the order passed by ACJM IInd, Haridwar.

The ACJM IInd Haridwar Rejected the application moved by the petitioner under section 156(3) of Cr.P.C. The provision of section 156(3) Cr.P.C. such as under.

"Any Magistrate empowered under section 190 may order such an investigation as above mentioned."

From the perusal of the above subsection of section 156 Cr.P.C., it is clear that when an application is received by the Magistrate, he has to forward the same to the section officer of the police station concerned to investigate the matter and to submit his report. The provision does not confer any power on the Magistrate to reject the application by giving same reasons .

Thus in my opinion both the ACJM and the learned session Judge have committed error of law in not directing the

station officer, of the concerned police station to get the matter investigated, rather rejected the application of the petition.

For the reasons recovered above, the writ petition is allowed. The order dated 11.4.2000 and 26.4.2000 passed by ACJM and the learned session Judge are set aside. The Magistrate is directed to the forward the application of the petitioner to the S.O. of the concerened police station to registered it as F.I.R. and to proceed in accordance with law , however, the investigation shall be made without being influence by the order passed above.

(P.C.Verma,J.)

18.4.2001